



PLANNING COMMISSION AGENDA REPORT

MEETING DATE: APRIL 10, 2006

Item 4.
ITEM NUMBER:

SUBJECT: PLANNING APPLICATION PA-06-09
2346 NEWPORT BOULEVARD, UNIT A

DATE: MARCH 30, 2006

FOR FURTHER INFORMATION CONTACT: WENDY SHIH, ASSOCIATE PLANNER (714) 754-5136

PROJECT DESCRIPTION

The applicant is requesting approval of a conditional use permit to upgrade an existing beer and wine ABC license to a full liquor license for a Circle K convenience store, and requests the Planning Commission make a public convenience or necessity finding required for the license upgrade.


APPLICANT

Corrie D. Kates of Foothill Project Management & The Urban Design Center is representing the property owner, Chester M. Winebright.

RECOMMENDATION

Deny, by adoption of Planning Commission resolution.


WENDY SHIH
Associate Planner


R. MICHAEL ROBINSON, AICP
Asst. Development Services Director

BACKGROUND

The multi-tenant commercial center is located on the southeast corner of Wilson Street and Newport Boulevard. The applicant proposes to upgrade an existing Type 20 (off-sale beer and wine) ABC (State Department of Alcoholic Beverage Control) license to a Type 21 (off-sale general) license for Circle K, an approximately 2,700 square-foot convenience store.

Since the property is located within an area where there is high crime, State law requires the City make a finding of "public convenience or necessity" before ABC will issue the license.

DISCUSSION

Business and Professions Code Section 23958.4 defines "undue concentration" as being an area where there is high crime, and/or the ratio of the number of ABC licenses to population within the census tract exceeds the countywide ratio. Although the ratio of off-sale licenses in the census tract does not exceed the countywide ratio (3 allowed; 3 existing), the property is located in an area that exceeds 20% of the Citywide average crime rate.

It is staff's opinion that there is no need for another retail establishment selling "hard" liquor, in addition to the current sale of beer and wine for Circle K. There are two other businesses with a Type 21 ABC license on the east side of Newport Boulevard, approximately two to four blocks from the subject site (Newport Liquor at 2200 and Quick Stuff at 2602 Newport Boulevard). Additionally, the subject business is not a "specialty retail" store like Beverages & More and Crystal Champagne Connoisseur, which were recently approved by Planning Commission. It is staff's opinion that a finding of public convenience or necessity cannot be made. The City has discouraged hard liquor sales at small convenience stores in the past.

Staff has requested comments from the Police Department. However, no comments were received as of this date.

GENERAL PLAN CONFORMITY

The subject site is designated commercial residential on the General Plan. The convenience store use is consistent with the land use designation, which allows commercial uses that serve and complement the residential neighborhoods to the east. Approval of the change in ABC license will not affect the General Plan consistency of the use.

ALTERNATIVES

The Planning Commission may consider the following alternatives:

1. Deny the application for a license upgrade, which would allow the applicant to continue to operate under the existing beer and wine license.

2. Approve the CUP for the license upgrade and make the finding for public convenience or necessity, subject to requiring the existing beer and wine license be canceled or surrendered prior to issuance of the new license.

CONCLUSION

Circle K currently sells beer and wine in a census tract, which presently includes two other businesses selling "hard" liquor. Since there are already two other establishments with a Type 21 license in proximity to the subject site, and the property is located in a high crime area and is not considered "specialty retail", it is staff's opinion that the CUP cannot be supported and a finding for public convenience or necessity cannot be made for the proposed license upgrade.

Attachments: Draft Planning Commission Resolution
 Exhibit "A" – Findings
 Exhibit "B" – Conditions of Approval
 Applicant's Project Description and Justification
 Location Maps
 Census Tracts Map
 High Crime Areas Map
 Plans

c: Deputy City Manager - Dev. Svs. Director
 Sr. Deputy City Attorney
 City Engineer
 Fire Protection Analyst
 Staff (4)
 File (2)

Chester M. Winebright
 5044 Avenida Del Sol
 Laguna Woods, CA 92637

Corrie D. Kates
 Foothill Project Management & Urban Design Center
 P.O. Box 4403
 Costa Mesa, CA 92626

| | | |
|--------------------|--------------|---------------|
| File: 041006PA0609 | Date: 032906 | Time: 8:25 AM |
|--------------------|--------------|---------------|

RESOLUTION NO. PC-06-

**A RESOLUTION OF THE PLANNING COMMISSION OF THE
CITY OF COSTA MESA DENYING PLANNING
APPLICATION PA-06-09**

THE PLANNING COMMISSION OF THE CITY OF COSTA MESA HEREBY
RESOLVES AS FOLLOWS:

WHEREAS, an application was filed by Corrie D. Kates for Chester M. Winebright, owner of real property located at 2346 Newport Boulevard, Unit A, requesting approval of a conditional use permit to upgrade an existing type 20 (off-sale beer and wine) ABC license to type 21 (off-sale general) license, and to make the public convenience or necessity finding for the license upgrade in the C1 zone; and

WHEREAS, a duly noticed public hearing was held by the Planning Commission on April 10, 2006.

BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit "A," the Planning Commission hereby **DENIES** Planning Application PA-06-09 with respect to the property described above.

PASSED AND ADOPTED this 10th day of April, 2006.

Bill Perkins, Chair
Costa Mesa Planning Commission

STATE OF CALIFORNIA)
)ss
COUNTY OF ORANGE)

I, R. Michael Robinson, secretary to the Planning Commission of the City of Costa Mesa, do hereby certify that the foregoing Resolution was passed and adopted at a meeting of the City of Costa Mesa Planning Commission held on April 10, 2006, by the following votes:

AYES: COMMISSIONERS

NOES: COMMISSIONERS

ABSENT: COMMISSIONERS

ABSTAIN: COMMISSIONERS

Secretary, Costa Mesa
Planning Commission

EXHIBIT "A"

FINDINGS

- A. The information presented does not comply with Costa Mesa Municipal Code Section 13-29(g)(2) in that the proposed use is not compatible with developments in the same general area. Granting the conditional use permit will be detrimental to the health, safety and general welfare of the public or other properties or improvements within the immediate vicinity. Specifically, the property is located in an area where there is high crime and there are already two other retail establishments or liquor stores with a Type 21 ABC license in the vicinity.
- B. The convenience store use is consistent with the commercial residential General Plan land use designation, which allows commercial uses that serve and complement the residential neighborhoods to the east. Approval of the change in ABC license will not affect the General Plan consistency of the use.
- C. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City environmental procedures, and has been found to be exempt from CEQA under Section 15301 for Existing Facilities.
- D. The project is exempt from Chapter XII, Article 3 Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

EXHIBIT "B"**CONDITIONS OF APPROVAL (If project is approved)**

- PIng.
1. The applicant shall cancel or surrender the current Type 20 ABC license before the Type 21 license is issued.
 2. No wine shall be sold with an alcoholic content of greater than 15% of volume except for "dinner wines" which have been aged two years or more and maintained in corked bottles.
 3. Wine shall not be sold in bottles or containers smaller than 750 milliliters.
 4. No sale of beer in single cans or bottles (any size) shall be permitted. This restriction is not intended to prohibit the sale of such beverages in kegs or other types of containers, with a volume of 2 or more gallons, which are clearly designed to dispense multiple servings.
 5. Beer, malt beverages, wine coolers or pre-mixed distilled spirit cocktails packed in 16-ounce containers or smaller, may not be sold as single containers, but must be sold in manufacturer prep-packaged multi-unit quantities.
 6. Beer or wine shall not be displayed or sold from an ice tub or any other type of portable refrigerated unit.
 7. Applicant shall post signs inside and outside the premises prohibiting the on-site consumption of alcoholic beverages and loitering.
 8. Applicant shall post signs inside and outside the premises in compliance with the City of Costa Mesa Municipal Code notifying the public with regard to the prohibition of open containers of alcohol beverages.
 9. At least every 2 hours, from 4:00 p.m. to closing, the applicant shall patrol the area over which the applicant has control in an effort to prevent the loitering of persons about the premises. The frequency of patrols shall be increased should the need arise. The applicant shall make reasonable efforts to prevent loitering during other hours the business is open.
 10. Applicant shall secure the premises with appropriate security lighting and employee scrutiny of adjacent areas under which applicant has control, to prevent trash, graffiti and littering. Any lighting under the control of the applicant shall be directed in such a manner so as not to unreasonably interfere with the quiet enjoyment of nearby residences. Applicant shall further provide adequate lighting above the entrance to the premises sufficient in intensity to make visible the identity and actions of all persons entering and leaving the premises.
 11. Except as permitted by the City of Costa Mesa Municipal Code for temporary window signs, windows shall not be blocked or obscured.
 12. Exterior advertising shall comply with the City's sign regulations, and exterior advertisements shall be prohibited which indicate the availability of alcoholic beverages. Interior displays of alcoholic beverages or signs, which are clearly visible from the exterior at the closest public street or sidewalk, shall constitute a violation of this condition.
 13. The applicant shall maintain free of litter all areas of the premises under

which applicant has control.

14. Any graffiti painted or marked upon the premises shall be removed or painted over within 48 hours of being applied.
15. The conditional use permit herein approved shall be valid until revoked, but shall expire upon discontinuance of the activity authorized hereby for a period of 180 days or more. The conditional use permit may be referred to the Planning Commission for modification or revocation at any time if the conditions of approval have not been complied with, if the use is being operated in violation of applicable laws or ordinances, or if, in the opinion of the development services director or his designee, any of the findings upon which the approval was based are no longer applicable.
16. A copy of the conditions of approval for the conditional use permit must be kept on premises and presented to any authorized City official upon request. New business/property owners shall be notified of conditions of approval upon transfer of business or ownership of land.

PLANNING DIVISION - CITY OF COSTA MESA
DESCRIPTION/JUSTIFICATION

Application #: **PA.06.09**
Address: 2346 Newport Boulevard

Environmental Determination:

1. Fully describe your request:

To add Liquor sales to an existing Circle "K" market. Currently have available beer and wine sales

2. Justification

- A. For a Conditional Use Permit or Minor Conditional Use Permit:** Describe how the proposed use is substantially compatible with uses permitted in the same general area and how the proposed use would not be materially detrimental to other properties in the same area.

The addition of off-site sales of Liquor would not be detrimental to other properties in the same area. The addition of off-site sales would provide for similar sales of off-site Liquor that is allowed in neighboring Markets.

- B. For a Variance or Administrative Adjustment:** Describe the property's special circumstances, including size, shape, topography, location or surroundings that deprive the property of privileges enjoyed by other properties in the vicinity under the identical zoning classification due to strict application of the Zoning Code.

N/A

3. This project is: (check where appropriate) N/A

☐ In a flood zone. ☐ In the Redevelopment Area.
☐ Subject to future street widening. ☐ In a Specific Plan Area.

4. I have reviewed the HAZARDOUS WASTE AND SUBSTANCES SITES LIST published by the office of Planning and Research and reproduced on the rear of this page and have determined that the project:

☐ Is not included in the publication indicated above.
☒ Is included in the publication indicated above.

Signature

March '96

Date

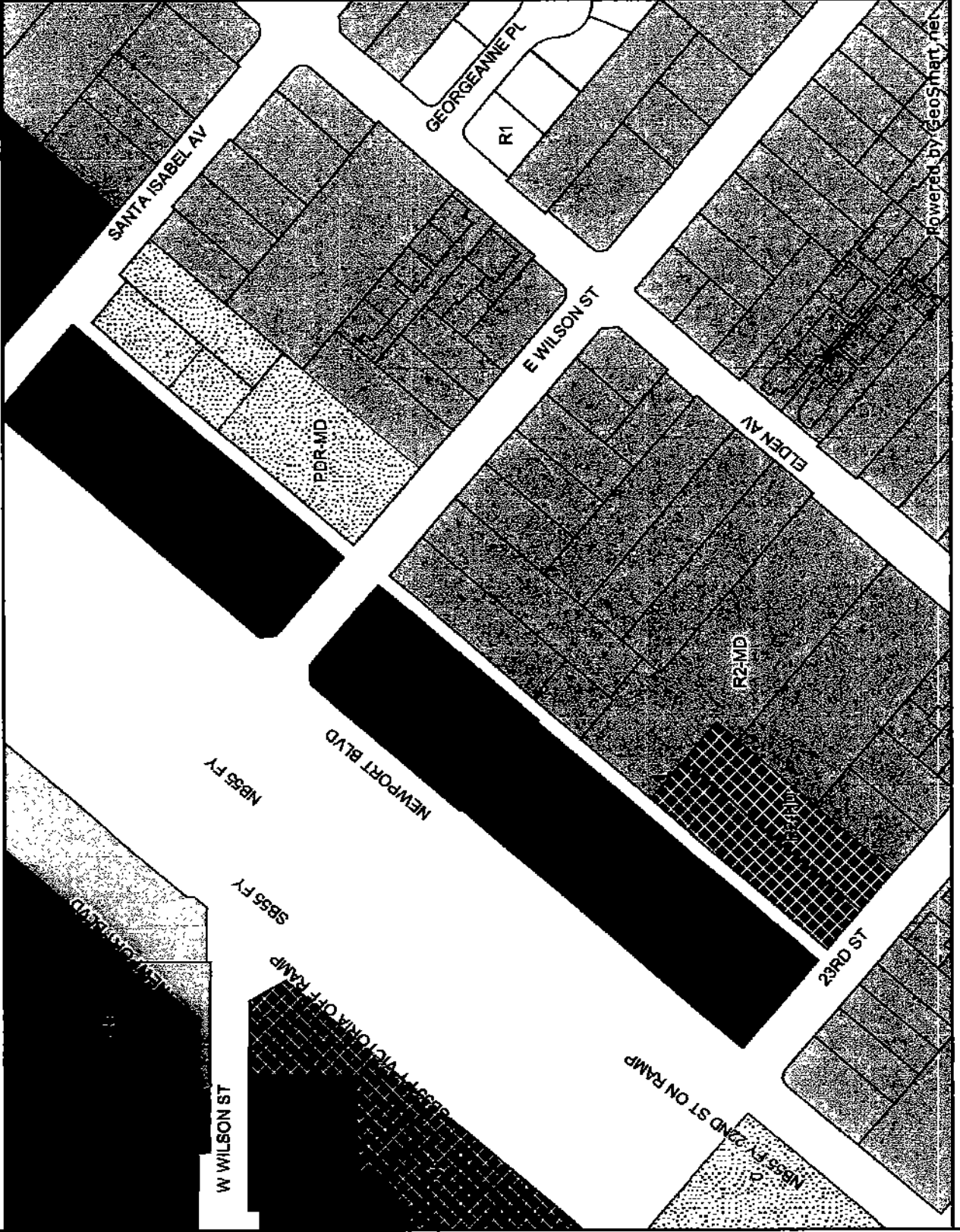
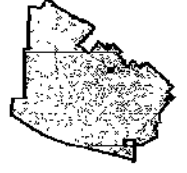
FEB. 3, 2006

ZONING/LOCATION MAP

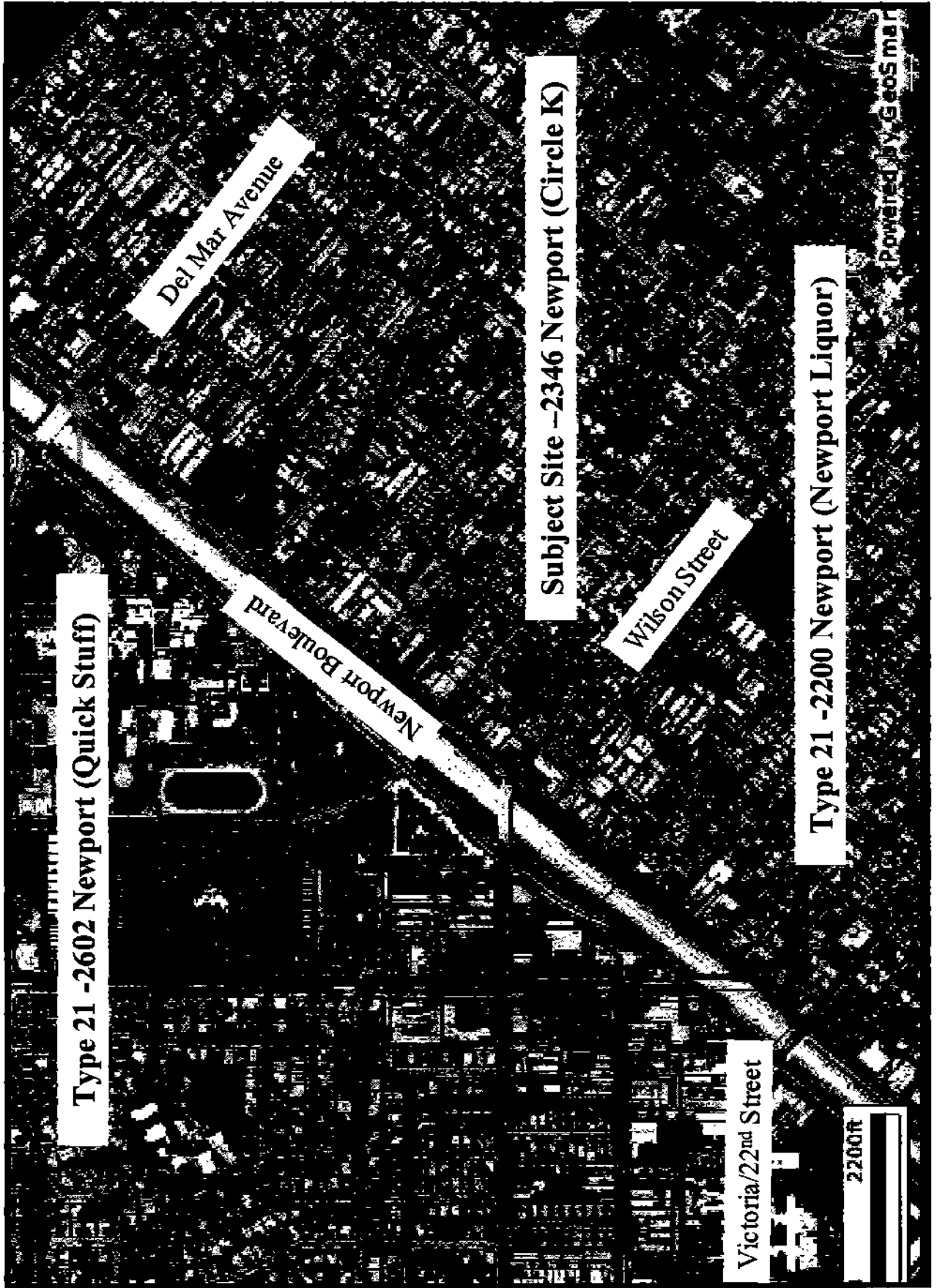
2346 Newport Boulevard

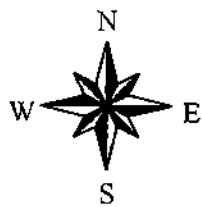
Legend

- Selected Features
 - Street Names
 - Parcel Lines
 - City Boundary
 - Zoning
- | | | | | | | | | | | | | | | | | | | | | | |
|----|----|------|----|----|----|------|----|----|---|-----|-----|--------|--------|--------|---------|----|-------|-------|----|----|---------|
| AP | C1 | C1-S | C2 | CL | DR | DR-S | MG | MP | P | PDC | PDI | PDR-MD | PDR-LO | PDR-MD | PDR-NCM | R1 | R2-MD | R2-MD | R3 | YC | Parcels |
|----|----|------|----|----|----|------|----|----|---|-----|-----|--------|--------|--------|---------|----|-------|-------|----|----|---------|



EXISTING OFF-SALE LICENSES

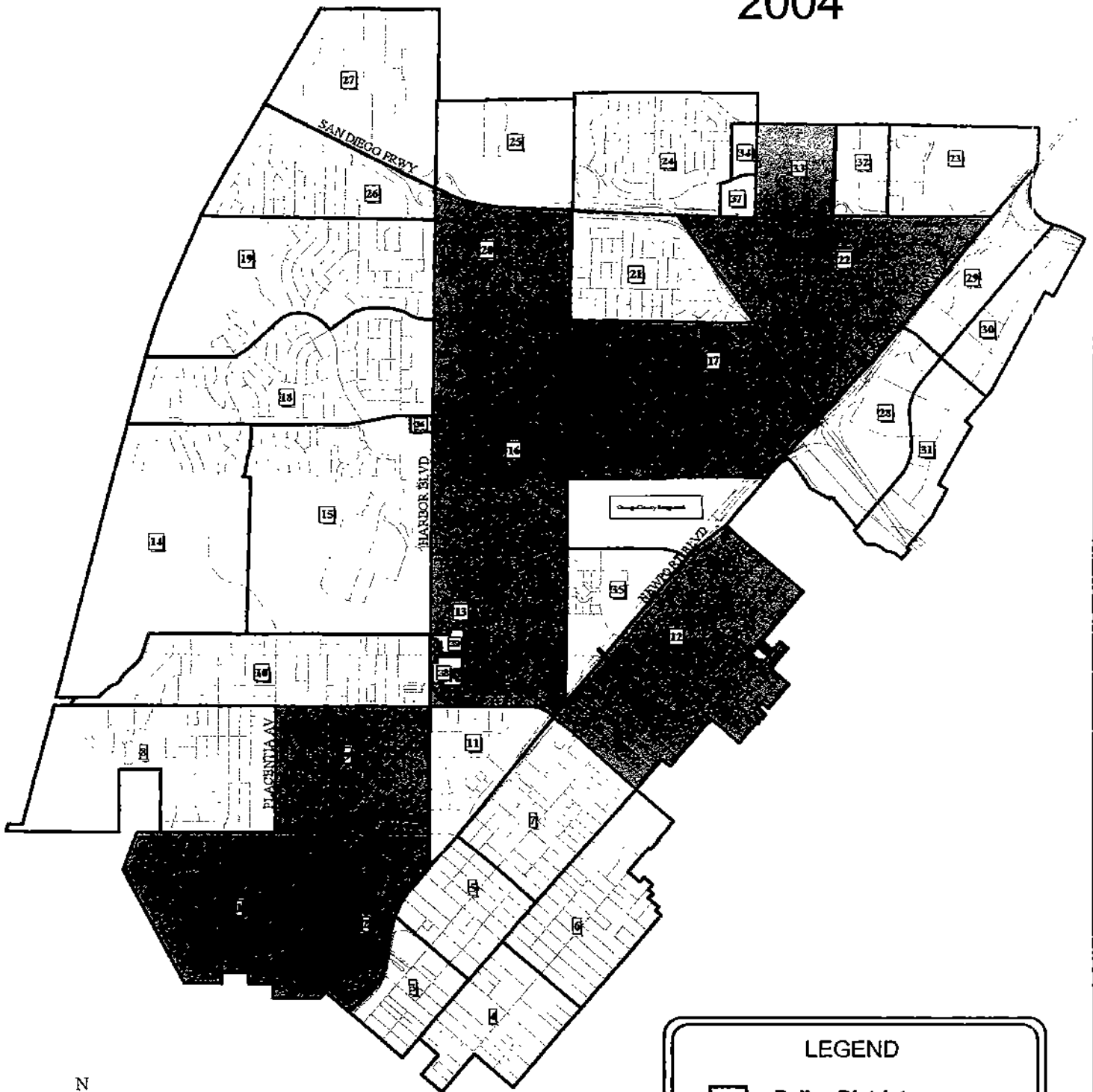






— City Streets
--- City Boundary Line

12

High Crime Areas 2004



LEGEND

-  Police Districts
-  Areas Where Crime Exceeds 20% of City Wide Average

PREPARED FOR:
 The Harbor
 1645 E. 10th Avenue
 Bremerton, WA 98310
 16th Street Office
 206-291-5181 ext. 201

Prepared By:
 Foothill Design International
 10101 44th Avenue
 Everett, WA 98203
 (206) 441-0228
 foothill@earthlink.net

Submitter Agency:
 City of Everett
 2200 6th Avenue
 Everett, WA 98201
 206-441-0228
 ARI 439-271134

Foothill Development

Job No. 1000001
 Drawn By: CKN
 Scale: 1/8" = 1'-0"
 Date: February 1, 2004
 Revision Date:
 Job No. 1000001

Sheet
 A-2
 Title Sheet
 Floor Plan

